

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

REGENERON PHARMACEUTICALS,
INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

ALEX M. AZAR II, in his official capacity
as Secretary of the United States Department
of Health and Human Services,

CENTERS FOR MEDICARE AND
MEDICAID SERVICES, and

SEEMA VERMA, in her official capacity as
the Administrator of the Centers for
Medicare and Medicaid Services,

Defendants.

Case No. 20-CV-10488 (KMK)

ECF Case

~~PROPOSED~~ ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION, TEMPORARY
RESTRAINING ORDER, AND
EXPEDITED BRIEFING SCHEDULE

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiff Regeneron Pharmaceuticals, Inc. (“Regeneron” or “Plaintiff”) hereby moves against Defendants the United States Department of Health and Human Services; Alex M. Azar II, in his official capacity as Secretary of the United States Department of Health and Human Services; Centers for Medicare and Medicaid Services; and Seema Verma, in her official capacity as the Administrator of the Centers for Medicare and Medicaid Services (collectively, “Defendants”) for a Preliminary Injunction, Temporary Restraining Order, and an Expedited Briefing Schedule. As set forth more fully in the Complaint and in Regeneron’s Memorandum of Law in Support of its Proposed Order to Show Cause for a Preliminary Injunction, Temporary Restraining Order, and an Expedited

Briefing Schedule (the “Memorandum of Law”), Regeneron proceeds on the basis that the Most Favored Nation Rule (the “MFN Rule”), 85 Fed. Reg. 76180 (Nov. 27, 2020), which was issued on November 20, 2020 and will take effect on January 1, 2021, will cause Regeneron to suffer irreparable injury absent injunctive relief. The MFN Rule specifically targets Regeneron’s leading product and will cause Regeneron to incur unrecoverable financial harm, irreversible competitive and reputational injury, and constitutional injury.

NOW, upon the accompanying Declaration of Robert Allen, Esq. sworn to on this 11th day of December, 2020, as well as Regeneron’s Complaint, the Memorandum of Law, the Declaration of Richard O’Neal, and the exhibits annexed thereto, it is hereby:

ORDERED that Plaintiff has demonstrated good cause for setting an expedited briefing schedule in this proceeding due to the January 1, 2021 implementation date of the MFN Rule;

ORDERED that Defendants show cause before the Honorable Kenneth M. Karas, U.S.D.J., located at the United States Courthouse, 300 Quarropas St., in White Plains, New York, Courtroom 521, on December 22, 2020, at 10 a.m. / ~~XXXX~~ as to why an Order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure preliminarily enjoining and/or temporarily restraining, without bond, Defendants, including their agents, servants, employees, attorneys, successors and assigns, and all persons acting in concert with them, from implementing and enforcing the MFN Rule, and vacating and setting the MFN Rule aside;

IT IS FURTHER ORDERED that Defendants’ answering papers shall be filed and served upon Plaintiff’s counsel by e-mail not later than the 16th day of December, 2020, and any reply papers shall be filed and served not later than the 18th day of December, 2020.

SO ORDERED this 11th day of December, 2020.

It is further ordered that Plaintiff is to serve this order via email on Defendants by 12/11/20.



U.S.D.J.